

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7024
BILL NUMBER: SB 301

NOTE PREPARED: Apr 5, 2011
BILL AMENDED: Apr 4, 2011

SUBJECT: Court Fees.

FIRST AUTHOR: Sen. Bray
FIRST SPONSOR: Rep. Foley

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill has the following provisions:

- A. *Automated Record Keeping Fee* – It provides that in all civil, criminal, infraction, and ordinance violation actions, the clerk of the court shall collect an automated record keeping fee in the following amounts: (1) \$7 before July 1, 2011; (2) \$6 after June 30, 2011, and before July 1, 2013; (3) \$4 after June 30, 2013. It provides that in a circuit in which all of the circuit and superior courts do not rely solely on a case management system provided by the Judicial Technology and Automation Project, the clerk of the circuit court shall: (1) retain \$1 of each automated record keeping fee collected by the clerk for an action if the clerk is directed to do so by the county council of a county in the circuit; and (2) distribute monthly to the county auditor of the county any of the money retained. It specifies that the money retained by a clerk shall be used for the lease or purchase of a case management system for use by the circuit and superior courts in the circuit.
- B. *Public Defense Administration Fee* – It provides that in all civil actions, the clerk of the court shall collect the public defense administration fee in the following amounts: (1) \$3 before July 1, 2011; and (2) \$5 after June 30, 2011. It increases the semiannual amount that the Auditor of State transfers for deposit into the Public Defense Fund from \$2,700,000 to \$3,700,000 beginning July 1, 2011.

(The introduced version of this bill was prepared by the Commission on Courts.)

Effective Date: July 1, 2011.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) *Automated Record Keeping Fee* – The following table projects

the new revenue that would be collected from increasing the fee from \$4, its level in current statute beginning after June 30, 2011. Under current law, the Automated Record Keeping Fee will decrease from the current \$7 to \$4 beginning July 1, 2011. This bill will reduce the fee from the current \$7 to \$6 effective July 1, 2011.

The following table shows the new revenues for FY 2012 and FY 2013, when the fee would be increased to \$6 instead of \$4. For these next two fiscal years (FY 2012 and FY 2013) the new revenue is projected to be \$4.14 M.

New Revenue in \$Millions Deposited into State User Fee Fund						
	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Fee under Current Law	\$4.00	\$4.00	\$4.00	\$4.00	\$4.00	\$4.00
Proposed Fee	\$6.00	\$6.00	\$4.00	\$4.00	\$4.00	\$4.00
New Revenue (in \$M)	\$2.07	\$2.07	\$0.00	\$0.00	\$0.00	\$0.00
Notes: Projected Revenue from each \$1 change equaling about \$1.034 M (see following table).						

The new revenue shown in the table above would be deposited into two different funds:

- When an accused person agrees to enter into a pretrial diversion program (IC 33-19-1-8) or a pretrial deferral program (IC 34-28-5-1), the money from the Automated Record Keeping Fee is deposited into the Homeowners Protection Unit Account established by IC 4-6-12-9.
- For all other civil, criminal, or other cases, the fee is deposited into the State User Fee Fund and a portion is ultimately deposited in the Judicial Technology and Automation Project.

Any increase in Automated Record Keeping Fee revenue that results from delaying the fee reduction could be partially offset by this new provision. County councils in counties in which the circuit and superior courts do not solely rely on the Odyssey Court Management System may order the clerk of the circuit court to retain \$1 from the Automated Record Keeping Fee for lease or purchase of another case management system.

The Indiana Supreme Court reports that as of March 2011, 21 counties solely rely on the Odyssey Court Management System. However, courts in 35 counties are interested in adopting the system, and courts in 36 counties use another system. If the county councils in these 71 counties were to order their clerk of the circuit court to retain \$1 of the Automated Record Keeping Fee, the revenue loss to the State User Fee Fund could range between \$648,000 and \$900,000.

Public Defense Administration Fee – The current fee for the Public Defense Administration Fee is \$3. This bill increases the fee to \$5. This fee increase is estimated to increase the revenue that is deposited into the state General Fund by \$2 M. Twice a year, an additional \$1 M will be transferred from the state General Fund to the Public Defense Fund.

The Public Defense Fund reimburses counties for providing legal assistance to indigent defendants. In criminal cases. The fund is administered by the Division of State Court Administration of the Supreme Court.

Background Information – The revenue generated from the Automated Record Keeping Fee is deposited in the State User Fee Fund along with revenue from six other fees. On June 30th and December 31st of each year, \$1,288,000 is deposited into eight funds. Any remaining balance is deposited into the Judicial Technology Automation Project Fund. The added revenue from this bill would ultimately increase funding for the Judicial Technology Automation Project, which is administered by the Indiana Supreme Court. With no change in statute, the Automated Record Keeping Fee would decline from the current \$7 to \$4 and the fund would receive an estimated \$3.3 M less each year from its current levels.

The estimated revenue per dollar (\$1,037,988) is based on the revenue collected from the automated record keeping fee that is reported in the Auditor's Data Base.

Automated Record Keeping Fee Revenue Reported by Fiscal Year						
	2005	2006	2007	2008	2009	2010
Fee Level	\$7.00	\$7.00	\$7.00	\$7.00	\$7.00	\$7.00
Total Revenue Reported	\$7,176,700	\$7,039,496	\$7,166,376	\$7,167,670	\$6,869,244	\$8,176,027
Average Revenue Per Dollar	\$1,025,243	\$1,005,642	\$1,023,768	\$1,023,953	\$981,321	\$1,168,004
Average Revenue Per Dollar Between 2002 and 2007 = \$1,037,988						
Source: Auditor's Data Base						

Language originally creating the Automated Record Keeping Fee also created the Judicial Technology Automation Project Fund (HEA 1130 – 2001).

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The Auditor of State reports the history of revenue deposited into the State User Fee Fund. The revenue deposited into the State User Fee Fund and the amount of revenue that the Judicial Technology and Automated Project Fund received as part of the formula under IC 33-37-9-4 are shown in the table below.

FY	Automated Record Keeping Fee	State User Fee Fund Deposits	Amount Deposited into 8 Funds	Balance Remaining for Judicial Technology and Automated Project Fund
2004	\$7.00	\$9,219,382	\$2,576,000	\$6,643,382
2005	\$7.00	\$9,814,346	\$2,576,000	\$7,238,346
2006	\$7.00	\$9,498,948	\$2,576,000	\$6,922,948
2007	\$7.00	\$9,280,884	\$2,576,000	\$6,704,884
2008	\$7.00	\$9,705,837	\$2,576,000	\$7,129,837
2009	\$7.00	\$10,226,736	\$2,576,000	\$7,650,736
2010	\$7.00	\$10,098,191	\$2,576,000	\$7,522,191

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) Depending on the decisions of county councils, counties in which circuit and superior courts do not solely rely on the Odyssey Case Management System could gain

between \$648,000 and \$900,000. This added revenue would be limited to leasing or purchasing a case management system for use by the circuit or superior court in the circuit. (See also *Explanation of State Revenues*.)

State Agencies Affected: Division of State Court Administration.

Local Agencies Affected: Trial courts, city and town courts, Marion County Township Small Claims Courts, clerks of circuit courts, and city and town courts; County councils.

Information Sources: Auditor of the State, Indiana Code; *Indiana Judicial Reports*, 2002 through 2007.

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